

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MELVIN BROWN,

Plaintiff,

-against-

9:15-CV-1515 (LEK/CFH)

S. DUBOIS, *et al.*,

Defendants.

DECISION AND ORDER

I. INTRODUCTION

This matter comes before the Court following a Report-Recommendation filed on June 16, 2017, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 56 (“Report-Recommendation”). Pro se plaintiff Melvin Brown timely filed Objections. Dkt. No. 57 (“Objections”).

II. LEGAL STANDARD

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008) (abrogated on other grounds by *Widomski v. State Univ. of N.Y. at Orange*, 748 F.3d 471 (2d Cir. 2014)); see also *Machicote v. Ercole*, No. 06-CV-13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011)

(“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Otherwise, a court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” Id.

III. DISCUSSION

Although Brown submitted a filing in response to the Report-Recommendation, he did not include any specific objections to Judge Hummel’s findings or recommendations. The filing merely restates Brown’s Eighth Amendment claim and provides case law in support of such claim. Objs. at 2–5. Accordingly, the Court has reviewed the Report-Recommendation for clear error and has found none.

IV. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 56) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that Defendants’ Motion for Summary Judgment (Dkt. No. 37), insofar as it requests dismissal of Plaintiff’s claims for monetary damages against Defendants in their official capacities, is **GRANTED** and that such claims are dismissed; and it is further

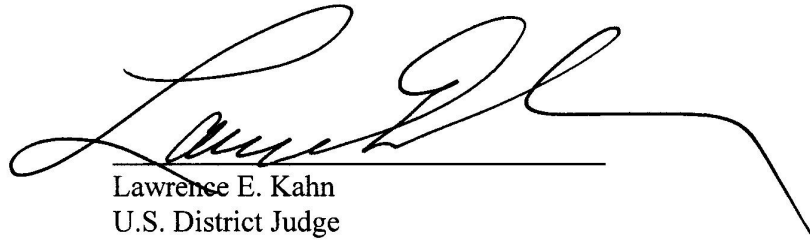
ORDERED, that Defendants’ Motion for Summary Judgment (Dkt. No. 37) is **DENIED in all other respects**; and it is further

ORDERED, that Plaintiff's Cross-Motion for Summary Judgment (Dkt. No. 40) is **DENIED**; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: July 12, 2017
Albany, New York



Lawrence E. Kahn
U.S. District Judge